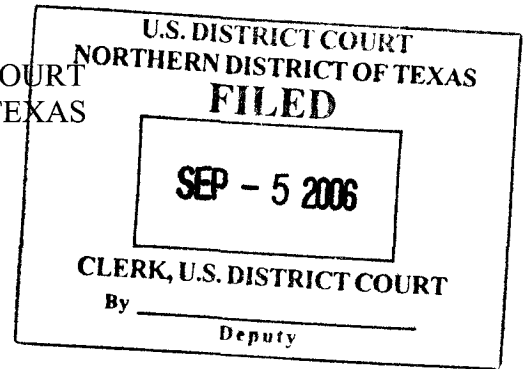


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



ALVIN CHAVELLE COOPER,

Petitioner,

v.

NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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2:06-CV-0190

ORDER OVERRULING OBJECTIONS,
ADOPTING REPORT AND RECOMMENDATION,
and DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS

Came for consideration the federal habeas corpus application filed by petitioner ALVIN CHAVELLE COOPER, a state prisoner. On August 8, 2006, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that the instant habeas application be dismissed for failure to exhaust. Petitioner filed objections to the Magistrate Judge's Report and Recommendation on August 18, 2006 arguing therein that he should be excused from the exhaustion requirement because (1) the sentence, of which he is challenging the execution thereof, is about to begin; and (2) the state appellate court with which he improperly filed his appeal did not transfer his appeal to the proper state appellate court, therefore, there is "an absence of available state corrective process."

The undersigned United States District Judge has made an independent examination of the record in this case. Petitioner's objections are hereby OVERRULED, and the Magistrate

Judge's Report and Recommendation is hereby ADOPTED. Accordingly, the petition for a writ of habeas corpus is hereby DISMISSED. Let Judgment be entered accordingly.

IT IS SO ORDERED.

ENTERED this 5th day of September 2006.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE